

BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION

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IN RE GRAPHICS PROCESSING UNITS :  
ANTITRUST LITIGATION :

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MDL DOCKET No. 1826

**PLAINTIFFS HENRY TRUONG, TRONG NGUYEN, JUDD ELIASOPH, AND  
STEPHANIE TRUONG'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR  
TRANSFER AND CONSOLIDATION OF RELATED ANTITRUST ACTIONS TO THE  
NORTHERN DISTRICT OF CALIFORNIA PURSUANT TO 28 U.S.C. §1407**

Plaintiffs Henry Truong, Trong Nguyen, Judd Eliasoph, and Stephanie Truong (collectively, the "Certain Northern District of California Plaintiffs"), submit this reply memorandum in further support of their motion for transfer and consolidation of related antitrust actions to the Northern District of California pursuant to 28 U.S.C. §1407 (the "Motion").

As of January 18, 2007, there are 22 included and potential tag-along actions that should be centralized by the Panel: 14 in the Northern District of California, six in the Central District of California, one in the Western District of Wisconsin and one in the District of Massachusetts. No one seeks transfer to the latter two districts; the Motion and various responses deal only with the former two. Two summary charts of all actions are attached hereto as Exhibit 1.

In their response to the Motion, the defendants in the underlying actions—ATI Technologies, Inc., Advanced Micro Devices, Inc., and Nvidia Corporation (collectively, “Defendants”)—all support the Northern District of California as a proposed transferee forum. However, Defendants specifically request transfer of the cases to the Honorable Ronald M. Whyte in the San Jose Division. Alternatively, Defendants propose as a transferee judge the Honorable Vaughn R. Walker, the Chief Judge of the Northern District of California, who sits in the San Francisco Division. Those requests should be rejected for several reasons.

First, *none* of the 22 included and potential tag-along actions are assigned to either Judge Whyte or Chief Judge Walker. While both are esteemed and accomplished jurists, there is no basis for countenancing Defendants’ proposal of judges that have no connection whatsoever with the underlying cases.

Second, the San Jose Division is not an appropriate choice for this particular proceeding due to its number of MDL proceedings per judgeship. As Defendants acknowledge at page eight of their response, six MDL proceedings are already pending in the San Jose Division, including two before Judge Whyte: *In re Cygnus Telecommunications Technology, LLC, Patent Litigation* (MDL No. 1423) and *In re Apple iPod nano Products Liability Litigation* (MDL No. 1754). There are only two other judges sitting in the San Jose Division; consequently, there already are two MDL proceedings per judgeship in that division.

Defendants’ alternative choice of Chief Judge Walker also is not appropriate because, in addition to his not insubstantial duties as Chief Judge, he also is already handling two current MDL proceedings: *In re Deep Vein Thrombosis Litigation* (MDL No. 1606) and *In re National Security Agency Telecommunications Records Litigation* (MDL No. 1791). In addition, Chief Judge Walker

is scheduled to be presiding over a trial in another nationwide price-fixing antitrust case during the first half of this year: *In re Tableware Antitrust Litigation*, Master File No. C-04-3514 VRW.

With respect to the cases currently pending in the Northern District of California, the Honorable Martin J. Jenkins is assigned to three actions: *Stephanie Truong v. Nvidia Corp., et al.*, Case No. 3:06-cv-07451; *Johnson v. Nvidia Corp., et al.*, Case No. 3:06-cv-07712; and *Jacobs v. Nvidia Corp., et al.*, Case No. 3:07-cv-00302. Judge Jenkins is only assigned to one current MDL proceeding, *In re Rubber Chemicals Antitrust Litigation* (MDL No. 1648), which the undersigned understands to be nearing completion. Judge Jenkins, due to his expertise in nationwide class action litigation involving horizontal price-fixing claims, would be an excellent choice as transferee judge in the present litigation.

If the Panel is not inclined to transfer the cases to the Northern District of California, the Certain Northern District of California Plaintiffs support the Central District of California as an alternative transferee forum. In the Central District of California, the first-filed case—*Schindelheim v. Advanced Micro Devices, Inc., et al.*, Case No. 2:06-cv-07803 MRP—was originally assigned to the Hon. Gary A. Feess. But on January 10 and 11th, both Judge Feess and Senior Judge Mariana A. Pfaelzer signed an Order Transferring Action Under Section 3.1 of General Order 224, which assigned the action to Judge Pfaelzer for all further proceedings. *See* Exh. 2.

Subsequently, by way of other orders in related actions, Judge Pfaelzer consented to the transfer of four additional cases: *Smith v. Nvidia Corp., et al.*, Case No. 2:06-cv-08183 MRP; *Tomaino v. Nvidia Corp., et al.*, Case No. 2:06-cv-07964 MRP; *Holtzman v. Advanced Micro Devices, Inc., et al.*, Case No. 2:06-cv-08117 MRP; and *Klebs v. Nvidia Corp., et al.*, Case

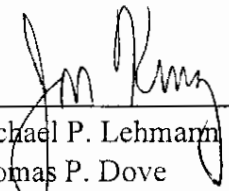
No. 2:07-cv-00192 MRP ("*Klebs*"). See Exhs. 3-6.<sup>1</sup> Thus, five of the six cases currently pending in the Central District of California are assigned to her.

Senior Judge Pfaelzer also has one pending MDL proceeding assigned to her, *In re Paxil Products Liability Litigation* (MDL No. 1574). She is also presiding over the consolidated customer class actions in the pulse oximetry antitrust litigation (*Allied Orthopedic Appliances v. Tyco Health Care Group, L.P.*, Master File No. CV-05-6419 MRP), as well as the associated competitor case (*Masimo Corp. v. Tyco Health Care Group, L.P.*, No. CV-02-4770 MRP). If the Panel finds it appropriate to transfer the cases to the Central District of California and if she is amenable to accepting these cases given her current workload, Senior Judge Pfaelzer would be an appropriate choice as transferee judge based upon her obvious judicial experience and expertise.

Dated: January 19, 2007

Respectfully submitted,

By:

  
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<sup>1</sup> As of the time of this brief's preparation, the transfer Order in *Klebs* was not available online; however, Exh. 6 is a printout of the docket that reflects the Order.

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Attorneys for the Certain Northern District  
of California Plaintiffs

**EXHIBIT 1**

**IN RE GRAPHICS PROCESSING UNITS ANTITRUST LITIGATION**  
(MDL DOCKET NO. 1826)

Antitrust Plaintiffs as of 1/19/07 (total: 22 cases)

**Central District of California**

- 1 Bryan Schindelheim (12/8/06)
- 2 Woodrow Clark (12/14/06)
- 3 Jennifer Tomaino (12/14/06)
- 4 Alan Holtzman (12/19/06)
- 5 Paul Smith (12/26/06)
- 6 Chad Klebs (1/8/07)

**Northern District of California**

- 1 Henry Truong (12/4/06)
- 2 Trong Nguyen (12/4/06)
- 3 Judd Eliasoph (12/5/06)
- 4 Stephanie Truong (12/5/06)
- 5 Rhonda Aldrich (12/6/06)
- 6 Justus Austin (12/7/06)
- 7 Karol Juskiewicz (12/8/06)
- 8 Kathryn Saunders (12/13/06)
- 9 Vincent Andella (12/15/06)
- 10 Brett M. Johnson (12/15/06)
- 11 Elie Mizrahi (12/20/06)
- 12 Daniel Perkel (1/5/07)
- 13 Joseph Clofine, Heather Daughtrey, Ronald Herold, Marilyn Nasta, and Merle Carey (1/10/07)
- 14 Roy Jacobs (1/17/07)

**District of Massachusetts**

- 1 James Matson (12/22/06)

**Western District of Wisconsin**

- 1 Scott Martin (12/22/06)



**IN RE GRAPHICS PROCESSING UNITS ANTITRUST LITIGATION**  
(MDL DOCKET NO. 1826)

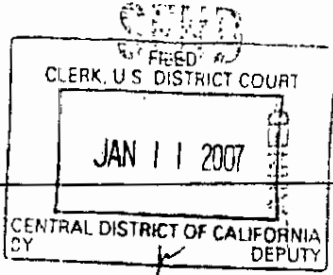
**Graphics Antitrust Cases as of 1/19/07**  
**Sorted by Filing Date**

	District	Plaintiff(s)	Case No.	Date Filed	Judge(s)
1	Northern District of California	Henry Truong, on behalf of himself and all others similarly situated	3:06-cv-07417	12/4/06	William H. Alsup
2	Northern District of California	Trong Nguyen, on behalf of himself and all others similarly situated	3:06-cv-07418	12/4/06	Elizabeth D. Laporte
3	Northern District of California	Judd Eliasoph, on behalf of himself and all others similarly situated	3:06-cv-07449	12/5/06	Samuel Conti
4	Northern District of California	Stephanie Truong, on behalf of himself and all others similarly situated	3:06-cv-07451	12/5/06	Martin J. Jenkins
5	Northern District of California	Rhonda Aldrich, individually and on behalf of all others similarly situated	3:06-cv-07494	12/6/06	Samuel Conti
6	Northern District of California	Justus Austin, individually and on behalf of all others similarly situated	3:06-cv-07526	12/7/06	William H. Alsup
7	Northern District of California	Karol Juskiewicz, on behalf of himself and all others similarly situated	4:06-cv-07553	12/8/06	Claudia Wilken
8	Central District of California	Bryan Schindelheim, on behalf of himself and all others similarly situated	2:06-cv-07803	12/8/06	Mariana R. Pfaelzer (ref. to Mag. Judge Jacqueline Chooljian)
9	Northern District of California	Kathryn Saunders, on behalf of herself and all others similarly situated	3:06-cv-07635	12/13/06	William H. Alsup
10	Central District of California	Woodrow Clark, on behalf of himself and all others similarly situated	2:06-cv-07954	12/14/06	Mariana R. Pfaelzer (ref. to Mag. Judge Jacqueline Chooljian)
11	Central District of California	Jennifer Tomaino, on behalf of herself and all others similarly situated	2:06-cv-07964	12/14/06	Mariana R. Pfaelzer (ref. to Mag. Judge Jacqueline Chooljian)
12	Northern District of California	Vincent Andella, on behalf of himself and all others similarly situated	3:06-cv-07710	12/15/06	William H. Alsup
13	Northern District of California	Brett M. Johnson, on behalf of himself and all others similarly situated	3:06-cv-07712	12/15/06	Martin J. Jenkins



	District	Plaintiff(s)	Case No.	Date Filed	Judge(s)
14	Central District of California	Alan Holtzman, on behalf of himself and all others similarly situated	2:06-cv-08117	12/19/06	Mariana R. Pfaelzer (ref. to Mag. Judge Jacqueline Chooljian)
15	Northern District of California	Elie Mizrahi, individually and on behalf of all others similarly situated	3:06-cv-07808	12/20/06	Jeffrey S. White
16	District of Massachusetts	James Matson, on behalf of himself and all others similarly situated	1:06-cv-12286	12/22/06	Douglas P. Woodlock
17	Western District of Wisconsin	Scott Martin, individually and on behalf of all others similarly situated	06-cv-0755	12/22/06	Barbara B. Crabb
18	Central District of California	Paul Smith, on behalf of himself and all others similarly situated	2:06-cv-08183	12/26/06	Mariana R. Pfaelzer (ref. to Mag. Judge Jacqueline Chooljian)
19	Northern District of California	Daniel Perkel, on behalf of himself and all others similarly situated	4:07-cv-00085	1/5/07	Claudia Wilken
20	Central District of California	Chad Klebs, on behalf of himself and all others similarly situated	2:07-cv-00192	1/8/07	Percy Anderson (ref. to Mag. Judge Judge Suzanne H. Segal)
21	Northern District of California	Joseph Clofine, Heather Daughtrey, Ronald Herold, Marilyn Nasta, and Merle Carey, on behalf of themselves and all others similarly situated	3:07-cv-00191	1/10/07	Mag. Judge James Larson
22	Northern District of California	Roy Jacobs, on behalf of himself and all others similarly situated	3:07-cv-00302	1/17/07	Martin J. Jenkins

## **EXHIBIT 2**

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA		
BRYAN SCHINDELHEIM,  PLAINTIFF(S),  v.  ADVANCED MICRO DEVICES, INC., et al.,  DEFENDANT(S).	CASE NUMBER  CV 06-7803-GAF  ORDER TRANSFERRING ACTION UNDER SECTION 3.1 OF GENERAL ORDER 224	

Pursuant to Section 3.1 of General Order 224,

IT IS HEREBY ORDERED that the above-entitled action be transferred to the calendar of Senior Judge  
MARIANA R. PFAELZER for all further proceedings.

Dated: January 11, 2007

Mariana R. Pfaelzer  
 Senior Judge Mariana R. Pfaelzer  
 United States District Court

Dated: January 10, 2007

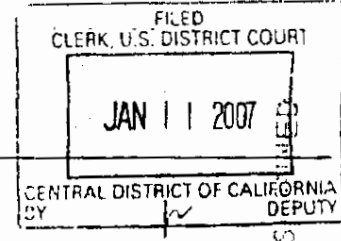
Gary Allen Feess  
 Judge Gary Allen Feess  
 United States District Court

NOTICE TO COUNSEL FROM CLERK:

On all documents subsequently filed in this case, please substitute the initials MRP after the case number, so that the case numbers will read CV 06-7803-MRP. This is very important because documents are routed to the assigned Judge by means of these initials.

## **EXHIBIT 3**

Case 2:06-cv-08183-MRP-JC Document 7 Filed 01/11/2007 Page 1 of 1



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

PAUL SMITH,

PLAINTIFF(S),

v.

NVIDIA CORP., et al.,

DEFENDANT(S).

CASE NUMBER

CV 06-8183-GAF

ORDER TRANSFERRING  
ACTION UNDER SECTION 3.1  
OF GENERAL ORDER 224

Pursuant to Section 3.1 of General Order 224,

IT IS HEREBY ORDERED that the above-entitled action be transferred to the calendar of Senior Judge  
MARIANA R. PFAELZER for all further proceedings.

Dated: January 11, 2007

Mariana R. Pfaelzer  
Senior Judge Mariana R. Pfaelzer  
United States District Court

Dated: January 10, 2007

Gary Allen Feess  
Judge Gary Allen Feess  
United States District Court

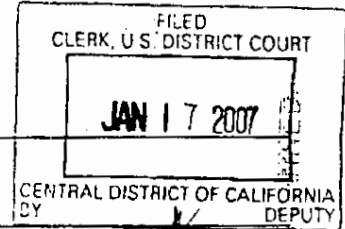
NOTICE TO COUNSEL FROM CLERK:

On all documents subsequently filed in this case, please substitute the initials MRP after the case number, so that the case numbers will read CV 06-8183-MRP. This is very important because documents are routed to the assigned Judge by means of these initials.

## **EXHIBIT 4**

ORIGINAL

①

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Jennifer Tomaino

Plaintiff(s),

v.

Nvidia Corporation, et al

Defendant(s).

CASE NUMBER:

CV 06-7964 R (VBKx)

ORDER RE TRANSFER PURSUANT  
TO GENERAL ORDER 224  
( Related Cases)

## CONSENT

I hereby consent to the transfer of the above-entitled case to my calendar, pursuant to General Order 224.

January 16, 2007  
DateMariana R. Pfaelzer  
Mariana R. Pfaelzer  
United States District Judge

## DECLINATION

I hereby decline to transfer the above-entitled case to my calendar for the reasons set forth:

Date

United States District Judge

## REASON FOR TRANSFER AS INDICATED BY COUNSEL

Case CV 06-7803 MRP (JCx) and the present case:

- ☒ A. Arise from the same or closely related transactions, happenings or events; or  
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☒ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

## NOTICE TO COUNSEL FROM CLERK

Pursuant to the above transfer, any discovery matters that are or may be referred to a Magistrate Judge are hereby transferred from Magistrate Judge Kenton to Magistrate Judge Chooljian

On all documents subsequently filed in this case, please substitute the initials MRP (JCx) after the case number in place of the initials of the prior judge, so that the case number will read CV 06-7964 MRP (JCx). This is very important because documents are routed to the assigned judges by means of these initials. The case file, under seal documents, exhibits, docket, transcripts or depositions may be viewed at the ☒ Western ☐ Southern ☐ Eastern Division.

Subsequent documents must be filed at the ☒ Western ☐ Southern ☐ Eastern Division.  
 Failure to file at the proper location will result in your documents being returned to you.

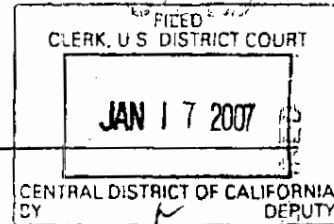
⑩



## **EXHIBIT 5**

ORIGINAL

(2)

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Alan Holtzman

Plaintiff(s),

v.

Advanced Micro Devices, Inc., et al

Defendant(s).

CASE NUMBER:

CV 06-8117 DSF (VBKx)

ORDER RE TRANSFER PURSUANT  
TO GENERAL ORDER 224  
( Related Cases)

## CONSENT

I hereby consent to the transfer of the above-entitled case to my calendar, pursuant to General Order 224.

January 16, 2007  
DateMariana R. Paelzer  
Mariana R. Paelzer  
United States District Judge

## DECLINATION

I hereby decline to transfer the above-entitled case to my calendar for the reasons set forth:

Date

United States District Judge

## REASON FOR TRANSFER AS INDICATED BY COUNSEL

Case CV 06-7803 MRP (JCx) and the present case:

- ☒ A. Arise from the same or closely related transactions, happenings or events; or  
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☒ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

## NOTICE TO COUNSEL FROM CLERK

Pursuant to the above transfer, any discovery matters that are or may be referred to a Magistrate Judge are hereby transferred from Magistrate Judge Kenton to Magistrate Judge Chooljian.

On all documents subsequently filed in this case, please substitute the initials MRP (JCx) after the case number in place of the initials of the prior judge, so that the case number will read CV 06-8117 MRP (JCx). This is very important because documents are routed to the assigned judges by means of these initials. The case file, under seal documents, exhibits, docket, transcripts or depositions may be viewed at the ☒ Western ☐ Southern ☐ Eastern Division.

Subsequent documents must be filed at the ☒ Western ☐ Southern ☐ Eastern Division.  
 Failure to file at the proper location will result in your documents being returned to you.

(22)

## **EXHIBIT 6**

(JCx), DISCOVERY, RELATED-G

**U.S. District Court  
CENTRAL DISTRICT OF CALIFORNIA (Western Division - Los Angeles)  
CIVIL DOCKET FOR CASE #: 2:06-cv-07954-MRP-JC**

Clark v. Nvidia Corporation et al  
Assigned to: Judge Mariana R. Pfaelzer  
Referred to: Magistrate Judge Jacqueline Chooljian  
Lead case: 2:06-cv-07803-MRP-JC ([View Member Cases](#))  
Cause: 15:0001 Antitrust Litigation

Date Filed: 12/14/2006  
Jury Demand: Plaintiff  
Nature of Suit: 410 Anti-Trust  
Jurisdiction: Federal Question

**Plaintiff**

**Woodrow Clark, II**  
*on behalf of himself and all others  
similarly situated*

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V.

**Defendant**

**Nvidia Corporation**

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CM/ECF - California Central District - Docket Report

[https://ecf.cacd.uscourts.gov/cgi-bin/DktRpt.pl?877753454868042-L\\_9...](https://ecf.cacd.uscourts.gov/cgi-bin/DktRpt.pl?877753454868042-L_9...)

12/27/2006	5	CERTIFICATION and NOTICE of Interested Parties filed by Defendant Advanced Micro Devices Inc. (shb, ) (Entered: 12/28/2006)
12/27/2006	6	NOTICE OF PETITION TO THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION filed by Defendants ATI Technologies Inc, Advanced Micro Devices Inc. (shb, ) (Entered: 12/28/2006)
12/27/2006	7	NOTICE of Related Case(s) filed by Defendants Nvidia Corporation, ATI Technologies Inc, Advanced Micro Devices Inc. Related Case(s): CV 06-7803 GAF, CV 06-7964 R, CV 06-8117 DSF (rn, ) (Entered: 12/28/2006)
12/28/2006	9	STIPULATION AND ORDER that the deadline for defendants Nvidia Corporation, ATI Technologies, Inc. and Advanced Micro Devices, Inc. to answer or otherwise respond to the complaint is extended to 30 days (1) after the order resolving the JPML motion, and (2) the filing and service of any subsequent consolidated complaint by Judge Dean D. Pregerson :(bp, ) (Entered: 01/11/2007)
01/03/2007		PREPARED ORDER RE TRANSFER Pursuant to General Order 224 (Related Case) by Clerk; related to CV 06-7803 GAF (JCx). (rn, ) (Entered: 01/03/2007)
01/10/2007	10	MINUTE ORDER: (IN CHAMBERS); This action has been assigned to the calendar of Judge Dean D Pregerson. Counsel are encouraged to review the Central Districts website for additional information. The address is <a href="http://www.cacd.uscourts.gov">http://www.cacd.uscourts.gov</a> . It is not necessary to clear a motion date with the Court Clerk prior to filing the motion. Court hears motions only on Mondays at 10:00 by Judge Dean D. Pregerson Court Reporter: None Present. (ir, ) (Entered: 01/11/2007)
01/17/2007		PLACED IN FILE - NOT USED re Order re transfer Pursuant to General Order 224 - Low number case transferred to Judge Pfaelzer (rn, ) (Entered: 01/17/2007)
01/17/2007		PREPARED ORDER RE TRANSFER Pursuant to General Order 224 (Related Case) by Clerk; related to CV 06-7803 MRP (JCx). (rn, ) (Entered: 01/17/2007)
01/19/2007	11	ORDER RE TRANSFER PURSUANT TO GENERAL ORDER 224 -Related Case- filed. Related Case No: CV 06-7803 MRP (JCx). Case transfered from Judge Fernando M. Olguin and Dean D. Pregerson to Judge Mariana R. Pfaelzer and Jacqueline Chooljian for all further proceedings. The case number will now reflect the initials of the transferee Judge CV 06-7954 MRP (JCx).Signed by Judge Mariana R. Pfaelzer (rn, ) (Entered: 01/19/2007)
01/19/2007		Cases associated with Lead Case CV 06-7803 MRP (JCx) (rn, ) (Entered: 01/19/2007)

**PACER Service Center****Transaction Receipt**

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Description:	Docket Report	Search Criteria:	2:06-cv-07954-MRP-JC

**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

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**IN RE GRAPHICS PROCESSING UNITS  
ANTITRUST LITIGATION**

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)  
) **MDL No. 1826**  
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**CERTIFICATE OF SERVICE**

I, Jon T. King, hereby certify that a true and correct copy of the following documents was served on the date below via U.S. Mail on the parties listed on the attached Panel Attorney Service List and supplemental service list:

- Plaintiffs Henry Truong, Trong Nguyen, Judd Eliasoph, and Stephanie Truong's Reply Memorandum in Support of Motion for Transfer and Consolidation of Related Antitrust Actions to the Northern District of California Pursuant to 28 U.S.C. § 1407
- Cover letter from Jon King to Panel Clerk

Dated: January 19, 2007

Respectfully submitted,

  
\_\_\_\_\_  
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Attorneys for Certain Northern District of  
California Plaintiffs

## Judicial Panel on Multidistrict Litigation - Panel Attorney Service List

Page 1

Docket: 1826 - In re Graphics Processing Units Antitrust Litigation

Status: Pending on / /

Transferee District: Judge:

Printed on 12/26/2006

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 Advanced Micro Devices, Inc.\*; ATI Technologies, Inc.\*



**In Re Graphics Processing Units Antitrust Litigation**  
**MDL No. 1826**  
**Supplemental Service List as of January 19, 2007**

**PLAINTIFFS**

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